

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In re:

KRAMER v. IQBAL, et al

CH: 7

1-11-01539-ess

S.M. TRANSPORTATION, LTD.

1-10-43746-ess

[1] ADJOURNED PRE-TRIAL CONFERENCE RE:  
COMPLAINT

ADJOURNED FROM: 2/16/12 3/15/12  
4/24/12 5/24/12 5/30/12 7/19/12  
9/28/12 11/20/12 1/22/2013

In re:

KRAMER v. IQBAL, et al

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[6] MOTION FOR DEFAULT JUDGMENT FILED  
BY FRED S KANTROW ON BEHALF OF DEBRA  
KRAMER

U.S. Bankruptcy Court  
271 Cadman Plaza East Suite 1595  
Brooklyn, New York 11201

March 5, 2013  
2:33 p.m.

BEFORE THE HONORABLE ELIZABETH S. STONG, Judge

APPEARANCES:

For the Trustee:

Avrum J. Rosen  
THE LAW OFFICES OF  
AVRUM J. ROSEN, PLLC  
38 New Street  
Huntington, NY 11743

Pro Se Debtor:

Shakil Iqbal

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APPEARANCES: (Continued)

Also Present:

Karamir Dahiya  
DAHIYA LAW OFFICES LLC  
325 Broadway Room 304  
New York, NY 10007

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1 THE CLERK: Numbers 29 and 30 on the calendar.  
2 Kramer versus Iqbal, et al. SM Transportation Limited, adjourn  
3 pretrial conference re complaint, motion for default judgment.

4 MR. ROSEN: Good afternoon again, Your Honor. Avrum  
5 Rosen. Your Honor, I may have messed something up on this one  
6 and I'm not sure. Your Honor may recall that this motion for  
7 default, this was on for a motion of default judgment the last  
8 time. There had been a letter submission by the Iqbals. And  
9 this is one where one of them had filed bank -- one of the  
10 defendants had filed bankruptcy and I raised the due process  
11 issue so we re-noticed it.

12 And what I left here for my notes I may have gotten  
13 wrong. I thought that I was remaking a motion for default  
14 judgment, which we did, and putting it on for today and  
15 reserving them so they would know. And that the Court was  
16 going to issue a scheduling order on it.

17 It turns out that I got a call a couple days ago from  
18 your courtroom deputy saying that she thought I was supposed to  
19 do the scheduling order. And if she says I was then I was.

20 THE COURT: Mr. Rosen --

21 MR. ROSEN: But I didn't.

22 THE COURT: -- if I had thought that you or I, that  
23 the Court or counsel were to do that it would be one thing.  
24 But if Ms. Jackson thinks it, it must be true. The question is  
25 what is the most effective way to move this forward?

1 MR. ROSEN: Right. Well, so the answer is though,  
2 Your Honor, I mean I think that the scheduling order was kind  
3 of in the adversary proceeding. But in any event they were  
4 reserved again now with a motion for a default judgment. They  
5 know that their discharge is denied. I mean the issue the last  
6 time was that, you know, we thought they may have been kind of  
7 -- in some kind of nether regions of space, not realizing that  
8 the automatic stay terminated in their case and that this  
9 matter was back on. So they never answered.

10 So I mean they've gotten all the due process required  
11 by the code. That case ended. They had a brand new motion for  
12 default judgment served on them again. And there was no  
13 response, even though they had sent the letter in once before,  
14 no response whatsoever.

15 So you know, my suggestion would be --

16 THE COURT: Yeah.

17 MR. ROSEN: -- to grant the motion and settle the  
18 order and see if they respond again. I mean, there's some  
19 obligation on people to respond to legal papers when they get  
20 it. They know their discharge has been denied. At the very  
21 least if they didn't think their discharge had been denied and  
22 it was stayed, somebody somewhere would have sent me a letter  
23 saying oh, Mr. Rosen, you're violating the automatic stay. But  
24 nothing happened.

25 THE COURT: All right. This -- in the adversary

1 proceeding, Kramer versus Iqbal, in the bankruptcy case of SM  
2 Transportation Limited we have an adjourned pretrial conference  
3 in a situation where the Defendants, Maria and Shakil Iqbal  
4 have filed for bankruptcy. And a motion for default judgment  
5 by the trustee noting that there's been no response in the  
6 adequacy of service.

7 And with respect to their bankruptcy case what is the  
8 timetable and status of that case? I just need to piece  
9 these --

10 MR. ROSEN: If I --

11 THE COURT: -- pieces --

12 MR. ROSEN: If I recall correctly, hang on a second.  
13 They filed bankruptcy. We commenced a 523 and a 727 action and  
14 we received a default judgment against the Iqbals denying their  
15 discharge. And then we filed -- and now we filed this motion  
16 seeking a default judgment against them of the fraudulent  
17 conveyances in the sum of \$143,529.17. And then there was  
18 another \$2,350 in unauthorized post-petition payments.

19 So that's what happened, Your Honor. We actually  
20 commenced an action against them to deny their discharge and it  
21 was granted on default. So they had notice of that. They had  
22 notice of the default judgment that they weren't granted.  
23 They've got almost \$145,000 of estate money and they're just  
24 not responding.

25 So time is not on our side.

1 THE COURT: No. Is anyone here representing the  
2 Defendants?

3 MR. ROSEN: No.

4 MR. DAHIYA: Good afternoon, Judge. Karamir Dahiya  
5 for Maria and Shakil Iqbal. I'll be filing my notice of  
6 appearance in this case today. And --

7 THE COURT: When were you retained, Mr. Dahiya?

8 MR. DAHIYA: Yeah. Just I wanted to pro bono to help  
9 this gentleman.

10 THE COURT: When were you retained?

11 MR. DAHIYA: Today.

12 THE COURT: Within the last hour?

13 MR. DAHIYA: Yes. And the gentleman needs help. His  
14 wife has got cancer with respect to the bones. And man needs  
15 help. And I volunteered as an officer of the court. I'll do  
16 my best to service, given best possible services.

17 THE COURT: Are you Mr. Iqbal?

18 MR. IQBAL: Yes.

19 THE COURT: Mr. Iqbal, thank you for coming to  
20 bankruptcy court. It's good to have you here. You're a pro se  
21 at the moment on my docket. Defendant in a bankruptcy case  
22 that raises some important issues. And you haven't been here  
23 up until now I don't think. Because I know that if you had  
24 appeared with or without counsel then the case might well be in  
25 a different posture.

1 Tell me why you filed this bankruptcy?

2 MR. IQBAL: Well, it was the 9th -- I don't remember  
3 the date, Your Honor. But -- I was passing through some health  
4 problems in those days. And I -- you know, I'm -- because of  
5 that reason that most of the time I wasn't, you know -- I was  
6 going in and out of hospital. And when I got a little better  
7 my wife somehow she went for a mammography and that was the  
8 case right now.

9 THE COURT: Okay.

10 MR. IQBAL: Your Honor, it's bad, bad situation,  
11 but --

12 THE COURT: Have you filed a bankruptcy case before?

13 MR. IQBAL: No, ma'am.

14 THE COURT: Did you get any information from a  
15 lawyer, or an accountant, or any professional familiar with  
16 bankruptcy in connection with filing your case?

17 MR. IQBAL: What I was decided -- what I was advised,  
18 whoever was presenting I just followed.

19 THE COURT: Who was that?

20 MR. IQBAL: I get the name, Your Honor. Mr. Sheron  
21 Duson (phonetic).

22 THE COURT: Okay. And -- what is your connection to  
23 SM Transportation Limited?

24 MR. IQBAL: It is momma and papa's operation. Maria  
25 is my wife.

1 THE COURT: Uh-huh, I see. What does it do? What is  
2 the business?

3 MR. IQBAL: It's an ambulance business. It's a post  
4 care system. That they go to the hospital and pick-up and drop  
5 elderly or disable patients.

6 THE COURT: Is it operating presently?

7 MR. IQBAL: No, Your Honor.

8 THE COURT: When did it stop operating?

9 MR. IQBAL: That was sometime '09.

10 THE COURT: Okay. So it's been some years now.

11 MR. IQBAL: '09 or '10. I'm a little --

12 THE COURT: But more than two years ago?

13 MR. IQBAL: Two, three years.

14 THE COURT: And before you filed the bankruptcy case  
15 of SM?

16 MR. IQBAL: Your Honor, the first time we filed was  
17 Chapter 11. But then I was told that it's not going well. For  
18 that reason I was transferred to Chapter 7.

19 THE COURT: I see the schedule -- the docket from the  
20 Chapter 11 case. That was back in April of 2010. And then  
21 that case ended up being converted to Chapter 7. And that's  
22 the case that this adversary's been brought in with Ms. Kramer  
23 as the trustee. All right.

24 MR. ROSEN: Your Honor, I note that when the  
25 individual case was filed it was not filed as a related case,



1 so it went to Judge Eisenberg.

2 THE COURT: And Mr. Iqbal, you live in Suffolk  
3 County?

4 MR. IQBAL: That's correct, Your Honor.

5 THE COURT: So the related case aspect causes the  
6 case to come to this courthouse and be pending before me as  
7 opposed to be in the Central Islip Courthouse where in general  
8 cases from Suffolk County are proceeding; is that right?

9 MR. ROSEN: It wasn't, Your Honor. Their individual  
10 case was in front of --

11 THE COURT: I see that.

12 MR. ROSEN: -- Judge Eisenberg. But I believe,  
13 unless I'm confusing with something else, I don't think you  
14 have the 7.

15 THE COURT: Of the --

16 MR. ROSEN: Individual.

17 THE COURT: Of SM Transportation?

18 MR. ROSEN: No, no. SM Transportation.

19 THE COURT: SM Transportation was my case.

20 MR. ROSEN: Right. What I was just saying to you is  
21 you didn't have their individual case.

22 THE COURT: No. It was transferred here in an  
23 intra-district transfer it appears. A within district transfer  
24 based on the related --

25 MR. ROSEN: Right.

1 THE COURT: -- case I suspect.

2 MR. ROSEN: Okay.

3 THE COURT: And Ms. Jones was the trustee in the  
4 individual case. Ms. Kramer's the trustee in the entity case.  
5 And only the entity case is before me presently with this  
6 motion for default judgment. Well --

7 MR. ROSEN: Your Honor, can I add something?

8 THE COURT: Please. It's a good thing, but also a  
9 complicated thing when at this late stage with a motion for  
10 default judgment there's an appearance by the Defendant. So we  
11 need to figure out the best way to proceed, protecting  
12 everybody's rights, including the trustee's rights, but also of  
13 course our rights.

14 MR. ROSEN: Your Honor, I'm going to be very blunt,  
15 all right. More blunt than usual. Clearly Mr. Iqbal has a  
16 right to get counsel. And Mr. Dahiya will do whatever he's  
17 going to do. And I'll take him at his word that this is  
18 probably fortuitous since we have another matter that's on  
19 today, but there's been something of a pattern that Your  
20 Honor's probably not aware of the fact that since the other  
21 motion that I have against Mr. Dahiya, which we're going --  
22 which is in the case which is next on the calendar, that motion  
23 is not on today, has been pending before the court.

24 What Mr. Dahiya appears to be doing is getting  
25 himself hired into cases wherever he can find I'm involved with

1 somebody to make various allegations and do various things. So  
2 he's free to -- Mr. Iqbal is free to retain whoever he wants to  
3 retain clearly. But I think under the circumstances that there  
4 need to be disclosures made to him about it, because I think  
5 there maybe one more -- and I said I'm being blunt, but I think  
6 there may be more than one agenda going on here.

7 And if he decides to do that freely of his own will  
8 because he's got pro bono counsel that's fine. But if not, and  
9 perhaps I'm completely off base here, but the fact of the  
10 matter is there are other matters going on here. And it's  
11 happened in another case in front of Judge Eisenberg indirectly  
12 going after me, very indirectly. But it just -- it's happening  
13 a few too many times to be a coincidence. But that's all I  
14 have to say, Your Honor.

15 MR. DAHIYA: I seriously object to this kind of  
16 venomous interjection about -- and skepticism. I'm  
17 representing this man. I'm a lawyer that appeals for their  
18 client, defend their constitutional rights, the rights to  
19 access the courtrooms. There are rights to have access to  
20 justice.

21 THE COURT: Mr. Dahiya, are you prepared for this  
22 hearing? Your client has a right to be represented by counsel  
23 who is prepared. It's my turn.

24 MR. DAHIYA: Please do not side with him, Your Honor.

25 THE COURT: Mr. Dahiya, I'm not siding with anyone.

1 And I respectfully --

2 MR. DAHIYA: I am --

3 THE COURT: -- invite you to withdraw that statement.

4 MR. DAHIYA: Your Honor, please don't get angry with  
5 me.

6 THE COURT: I'm not angry.

7 MR. DAHIYA: I'm defending a poor man.

8 THE COURT: I'm concerned.

9 MR. DAHIYA: He's -- I'm concerned about his health.  
10 I'm concerned about the man has no representation.

11 THE COURT: Mr. Dahiya, I denied your request to  
12 appear telephonically this afternoon.

13 MR. DAHIYA: Yes, Your Honor.

14 THE COURT: You would not have even been in this  
15 courtroom --

16 MR. DAHIYA: That's true, Your Honor.

17 THE COURT: -- had I permitted you to do what you  
18 wished to do, which was not come to court this afternoon.  
19 Please be seated.

20 MR. DAHIYA: I will be --

21 THE COURT: Mr. Iqbal, you're in a difficult spot  
22 here because you're a defendant in a case where no answer's  
23 been filed. It's very important when you're defending a case  
24 to have counsel represent you. Counsel of your choice. Not  
25 necessarily counsel of the moment, but counsel of your choice.

1 Now it may be that you will need help in making a  
2 good decision about hiring counsel. And it may be that you  
3 will hire Mr. Dahiya, or another lawyer, or a lawyer to whom  
4 you are referred from a Bar Association. It can often be  
5 helpful to go to a Bar Association to get a referral.

6 But my concern is fairness to all of the parties.  
7 And proceeding in the best way to be sure that due process in  
8 the first instance and justice in the end is done in the case  
9 that's been brought here.

10 So it's actually fairly simple. I want you to have  
11 an opportunity. First of all, thank you for coming in.  
12 Because I can't make this record or advise you of these things  
13 if you're not here. So there is really nothing more important  
14 than the fact that you decided to come to court today. And I'm  
15 very glad you did. It lets us get to work on the issues in the  
16 case.

17 Now I have before me a motion for default judgment.  
18 Do you know what that means? It means you haven't answered.  
19 And so that means you're in default. And if there is no answer  
20 there's no other side of the story before me. There's no  
21 admitting or denying any of the elements of the complaint.  
22 There's no opportunity to see what facts are contested and what  
23 facts are uncontested. And it's much more difficult to  
24 determine whether the complaint on its face states a claim.

25 But now that you're participating in the case all of

1 that will become much easier.

2 Now you've heard references which may not have been  
3 entirely clear to the next matter on the calendar. And it is a  
4 matter of public record that on my court calendar today, which  
5 has a little over 30 items, the following matter is a pretrial  
6 conference in a case where Mr. Rosen represents a different  
7 trustee. And Mr. Dahiya represents a defendant whose name is  
8 Mahia. And in that case there has been a motion made seeking  
9 some sanctions against Mr. Dahiya for claims that were brought  
10 and then dropped by him. Actually, brought by him and dropped  
11 by another lawyer who came in to represent the same person.

12 It's all a matter of public record and I think I'm  
13 stating it quite neutrally. But here's the point. Deciding  
14 who should represent you is a big deal. And you should do it  
15 not on the moment, but on the basis of thinking about who the  
16 right lawyer is. I often, and other judges often refer people  
17 to the Bar Association. The Brooklyn Bar Association is a five  
18 minute walk from here. It's at 123 Remsen Street.

19 The -- are you in Nassau or Suffolk?

20 MR. IQBAL: In Suffolk, Your Honor.

21 THE COURT: Suffolk. There's a Suffolk County Bar  
22 Association. And it may be that you will decide to hire  
23 Mr. Dahiya. You may decide to hire someone else. And you're  
24 entitled to continue representing yourself.

25 MR. DAHIYA: I will get in touch with the Bar to get

1 him a good lawyer, Your Honor. See if I can get him someone.

2 THE COURT: At the moment you're pro se because  
3 there's no attorney on the docket for you. Mr. Dahiya has  
4 indicated making what sometimes is called a special appearance  
5 right now, but the most important thing is that whatever your  
6 claims and defenses are. Whatever your needs for advice from a  
7 lawyer are that those needs are met if they possibly can be.

8 And hopefully we'd all agree to that. We are -- the  
9 lawyers in the room are all members. And I as the judge, I was  
10 a lawyer too. You know, we have duties as professionals to the  
11 system. Lawyers who appear in this courtroom have duties to  
12 the federal court. They have duties to each other.

13 In fact, our court has written these down in what are  
14 called civility guidelines saying, here's what we expect.  
15 Here's what you can expect of me and my colleagues. Here's  
16 what you can expect of the lawyers who represent you, and the  
17 lawyers who represent the people are -- who have filed an  
18 action against you. And those aren't people who are against  
19 you, but they are lawyers who represent clients who have  
20 asserted a claim. Trustees have jobs. So do debtors.

21 So that's where we are for today. I'm not going to  
22 consider the motion on the merits today. I'm going to adjourn  
23 it for about a month. Maybe a little longer.

24 MR. ROSEN: Your Honor --

25 THE COURT: We will provide you with information

1 about those two par associations. And you need to make a good  
2 decision about -- and talk to your family about how you want to  
3 proceed with representation.

4 MR. ROSEN: Your Honor, I fully understand that  
5 having appeared they would be given an opportunity. What I  
6 would suggest for timing purposes is if we could set a date for  
7 the file -- if we could kick this out to the April 25th date.

8 THE COURT: That's a good -- that's an appropriate  
9 amount of time I think.

10 MR. ROSEN: All right. And to have an answer filed  
11 say within 30 days from today. That gives him like a fresh  
12 start as if he were served today and would have the normal time  
13 to go out and get someone. That gives him the time to get --  
14 to file an answer.

15 THE COURT: I think this makes sense. Here's what  
16 I'm going to do.

17 MR. ROSEN: And because, Your Honor, just remember,  
18 this is our last issue in this case and it's holding up the  
19 distribution. So I don't want to keep it too open-ended.

20 THE COURT: So the time to respond to the complaint  
21 will be extended to April 4th, that's 30 days. We'll have a  
22 continued pretrial conference and hearing on the motion for  
23 default if there's an answer. There's a response to the  
24 complaint, but that will be the end of the motion for default.  
25 If there's no response I'll have to take that motion up.



1 April 25th at 2:00.

2 MR. ROSEN: And of course before that time, Your  
3 Honor, counsel, whomever they may end up being, is welcome to  
4 contact me and --

5 THE COURT: They should. Whoever it is.

6 MR. ROSEN: -- we'll be happy to have a discussion.

7 THE COURT: Whether it's Mr. Dahiya or someone else  
8 they should be promptly in touch with the Trustee. It  
9 sometimes happens that when the trustee is toward the end of  
10 the road of managing a case there's been a pattern established  
11 for what sensible settlements are in a case. I don't know -- I  
12 have no view as to whether this is a case that should be  
13 settled. It may be that you've got very useful information to  
14 the Trustee that will persuade the Trustee. There's really  
15 nothing to be done here. It maybe that this will turn out to  
16 be an important case.

17 We don't know that yet, because you were missing from  
18 the picture. But you're not missing anymore. So we can get to  
19 work on all those things first and foremost among the parties.  
20 Ideally with a lawyer to help you. A lawyer of your choice,  
21 who you hire after thinking about who's the right lawyer for  
22 you. And that may turn out to be Mr. Dahiya. And maybe he can  
23 help you find good resources to find good lawyers. He's  
24 familiar with the Bar Associations, as is Mr. Rosen. The Court  
25 certainly is as well. We'll give you contact information for

1 the Brooklyn Bar and the Suffolk County Bar.

2 Don't you think we can do that? We have it printed  
3 out already actually. All right. I think that's a good way to  
4 proceed.

5 Mr. Dahiya, anything to add?

6 MR. DAHIYA: No. Just I would see if he can find a  
7 pro bono. The family has no money, Your Honor. And if it  
8 could happen, the Brooklyn --

9 THE COURT: Both of the Bar Associations I've  
10 referred to make pro bono referrals.

11 MR. DAHIYA: I'll see if I can get into a bigger --  
12 big size firm. They will have more knowledge about this fine  
13 complex issues of embezzlement as of -- I think issues will  
14 come down to the merits, Your Honor.

15 THE COURT: They should.

16 MR. DAHIYA: So I will --

17 THE COURT: Merits should have -- the issues should  
18 come down to the merits.

19 MR. DAHIYA: I might get in touch with NYU School of  
20 Law --

21 THE COURT: Well, I encourage you to consider  
22 reaching out to the Bar Associations --

23 MR. DAHIYA: Yeah. I'll do that.

24 THE COURT: -- and their pro bono programs,  
25 Mr. Iqbal, including the volunteer lawyers project at the

1 Brooklyn Bar and the referral projects that are at the Suffolk  
2 County. But I don't know if the Nassau County Bar is  
3 restricted. It will be difficult for a lawyer from Suffolk  
4 perhaps. I wonder if the case -- should this case be here? I  
5 guess it is because it's related to SM.

6 All right. So that -- those will be our next steps.  
7 Mr. Rosen, anything to add?

8 MR. ROSEN: No, Your Honor.

9 THE COURT: Mr. Iqbal, any questions about what we're  
10 doing here?

11 MR. IQBAL: Are you asking me, Your Honor?

12 THE COURT: I'm asking if you have any questions?

13 MR. IQBAL: No.

14 THE COURT: I'm not promising I'll know the answer,  
15 or be able to answer, because conventionally it would be more  
16 that the judge would ask the questions and the parties and the  
17 lawyers would answer, but if there's something I can do to help  
18 this process move forward that's in everybody's interest, all  
19 right.

20 We will issue a scheduling order that puts on paper  
21 the date with respect to the time to respond to the complaint.  
22 That will be helpful when you talk to perspective lawyers  
23 because they'll want to make sure, they'll look at this and  
24 they'll say, there's a default. And you'll show that they have  
25 until April 4th to get an answer or response on file. That'll

1 be helpful. Maybe we can print the docket too, all right.

2 Okay. Anything further? Let's call the next matter.

3 Thank you very much. Mr. Iqbal, thank you for coming in.

4 MR. ROSEN: Thank you, Your Honor.

5 (Proceedings Concluded)

6

7

8 I certify that the foregoing is a correct transcript from  
9 the record of proceedings in the above-entitled matter.

10

11 Dated: March 12, 2013



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